

House File 40 - Introduced

HOUSE FILE 40

BY HUNTER

A BILL FOR

1 An Act relating to the regulation of employment agencies and
2 employers and making penalties applicable.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **94A.3A Employee notice.**

2 1. An employment agency shall provide to each employee
3 referred for employment notice of the following:

4 *a.* The name, address, electronic mail address, and telephone
5 number of the following:

6 (1) The employment agency, or the contact information of the
7 employee of the employment agency facilitating the placement.

8 (2) The employment agency's workers' compensation carrier.

9 (3) The employer.

10 (4) The commissioner.

11 *b.* A description of the position and whether it will require
12 any special clothing, equipment, training, or licenses, and
13 any costs that will be charged to the employee for supplies or
14 training.

15 *c.* The designated payday, the hourly rate of pay, and
16 whether overtime may occur and be paid.

17 *d.* The daily starting time and anticipated end time and, if
18 known, the expected duration of employment.

19 *e.* Whether any meals will be provided by the employment
20 agency or employer and the charge for such meals, if any, to
21 the employee.

22 *f.* Details of the means of transportation to the work
23 site and any fees that will be charged to the employee by the
24 employment agency or employer for any transportation services.

25 2. An employment agency shall confirm the information in
26 the notice required by subsection 1 in writing and send a
27 copy thereof to the employee, by a method designated by the
28 employee, before the end of the employee's first pay period.
29 However, an employment agency shall send any change in the
30 initial terms of employment to the employee immediately.

31 3. The employment agency shall post in a conspicuous place
32 in each of the locations where it does business a notice
33 of the requirements of this section and the name, internet
34 site address, and telephone number of the commissioner. The
35 commissioner shall prepare and publish on the commissioner's

1 internet site a sample notice for use by employers that meets
2 the requirements of this section and, upon request, shall
3 facilitate the translation of the notice into a language other
4 than English.

5 4. This section shall not be construed to prohibit an
6 employment agency from directing an employee to employment by
7 telephone. However, the employment agency shall provide the
8 information required by subsection 1 by telephone at the same
9 time.

10 5. This section does not apply to a professional employee,
11 as defined in 29 U.S.C. §152, or to an employee who is a
12 secretary or administrative assistant whose main or primary
13 duties are described by the United States department of labor,
14 bureau of labor statistics, as involving one or more of the
15 following:

16 a. Drafting or revising correspondence.

17 b. Scheduling appointments.

18 c. Creating, organizing, and maintaining paper and
19 electronic files.

20 d. Providing information to callers or visitors.

21 Sec. 2. NEW SECTION. **94A.3B Transportation services.**

22 If an employment agency or employer or a person acting
23 directly or indirectly in the interest of either offers
24 transportation services to or from a designated work site
25 to an employee and charges a fee for such services, the
26 employment agency or employer shall charge such employee not
27 more than the actual cost to transport such employee to or
28 from the designated work site. Such fee shall not exceed
29 three percent of such employee's total daily wages and shall
30 not reduce the employee's total daily wages below the minimum
31 wage earned for the day. If an employment agency or employer
32 or a person acting directly or indirectly in the interest of
33 either requires the use of such services by an employee, a
34 fee shall not be charged to the employee for such services.
35 If an employment agency or employer provides transportation

1 services to a designated work site to an employee on a day when
2 employment is not available, the employment agency or employer
3 shall fully refund any fee charged to the employee for such
4 services.

5 Sec. 3. Section 94A.4, subsection 4, Code 2015, is amended
6 by adding the following new paragraphs:

7 NEW PARAGRAPH. *g.* Refer an employee for employment by force
8 or fraud, for illegal purposes, or where the employment is in
9 violation of state or federal law.

10 NEW PARAGRAPH. *h.* Refer an employee for employment at any
11 location that is on strike or lockout without first notifying
12 the employee of such fact.

13 Sec. 4. Section 94A.4, Code 2015, is amended by adding the
14 following new subsections:

15 NEW SUBSECTION. 5. An employment agency or employer shall
16 not charge or accept a fee from an employee for the following:

17 *a.* Any good or service unless under the terms of a written
18 contract with the employee, which clearly states in a language
19 the employee can understand that the purchase is voluntary and
20 which provides that the employment agency or employer will not
21 gain a profit from any cost or fee charged to the employee.

22 *b.* The provision of a bank card, debit card, payroll card,
23 voucher, draft, money order, or similar form of payment or
24 wages that exceeds the actual cost per employee.

25 *c.* Any drug test.

26 *d.* Any criminal history background check.

27 *e.* Transportation, except as provided in section 94A.3B.

28 *f.* Any good or service the payment for which would cause the
29 employee to earn less than the applicable minimum wage.

30 NEW SUBSECTION. 6. An employment agency or employer or
31 a person acting directly or indirectly in the interest of
32 either shall not deduct any costs or fees from the wages of
33 an employee without the express written authorization of the
34 employee. An employment agency or employer shall furnish to
35 the employee a copy of the signed authorization in a language

1 the employee can understand.

2 NEW SUBSECTION. 7. An employment agency or employer shall
3 not refuse to return on demand any personal property belonging
4 to an employee or any fee or cost that is charged to the
5 employee or accepted by the employment agency or employer in
6 excess of the amounts allowable under this chapter.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill makes various modifications to Code chapter
11 94A, which provides for regulation of employment agencies in
12 this state by the labor commissioner. "Employment agency"
13 is defined as a person who brings together those desiring to
14 employ and those desiring employment and who receives a fee,
15 privilege, or other consideration directly or indirectly from
16 an employee for the service.

17 The bill requires an employment agency to provide to each
18 employee referred for employment notice of certain information
19 relating to the employment. The required information must be
20 confirmed in writing and sent to the employee before the end
21 of the employee's first pay period by an employment agency,
22 but any change to the initial terms of employment must be sent
23 immediately.

24 The bill requires an employment agency to post in each of the
25 locations where it does business notice of the requirements of
26 the bill and contact information for the labor commissioner.
27 The bill requires the labor commissioner to prepare a sample
28 notice for use by employers.

29 The notice requirements do not prohibit an employment agency
30 from directing an employee to employment by telephone, if the
31 employment agency also provides the required notification at
32 the same time. The notification requirements do not apply to
33 a professional employee as defined in federal law or to an
34 employee who is a secretary or administrative assistant who has
35 certain duties.

1 The bill places certain limitations on the fees an
2 employment agency or employer can charge an employee for
3 transportation services to or from a designated work site.

4 The bill prohibits an employment agency from referring
5 an employee for employment by force or fraud, for illegal
6 purposes, or where the employment is in violation of state or
7 federal law. The bill prohibits an employment agency from
8 referring an employee for employment at any location that is
9 on strike or lockout without first notifying the employee of
10 such fact.

11 The bill prohibits an employment agency or employer from
12 charging or accepting a fee from an employee for any good or
13 service unless under the terms of a written contract with the
14 employee; the provision of a bank card, debit card, or similar
15 form of payment or wages that exceeds the actual cost per
16 employee; any drug test; any criminal history background check;
17 transportation, except as provided in the bill; or any good or
18 service the payment for which would cause the employee to earn
19 less than the applicable minimum wage.

20 The bill prohibits an employment agency or employer from
21 deducting any costs or fees from the wages of an employee
22 without the express written authorization of the employee.

23 The bill prohibits an employment agency or employer from
24 refusing to return on demand any personal property belonging to
25 an employee or any fee or cost that is charged to the employee
26 or accepted by the employment agency or employer in excess of
27 the amounts allowable under Code chapter 94A.

28 A violation of Code chapter 94A is a simple misdemeanor and
29 is also cause for a civil penalty in an amount up to \$2,000.
30 A simple misdemeanor is punishable by confinement for no more
31 than 30 days or a fine of at least \$65 but not more than \$625
32 or by both.